

**IN THE UNITED STATES DISTRICT COURTS
FOR THE DISTRICT OF ALASKA**

Joan Wilson, et al. v. Alaska Native Tribal Health Consortium, et al.
Case No. 3:16-cv-00195-TMB

By: THE HONORABLE TIMOTHY M. BURGESS

PROCEEDINGS: ORDER FROM CHAMBERS

On December 3, 2018, Defendants, Alaska Native Tribal Health Consortium (“ANTHC”), Andrew Teuber, and Roald Helgesen filed a Motion to Dismiss all plaintiffs’ claims pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6).¹ On February 28, 2018, Plaintiffs Joan Wilson and Paul Franke filed a Response in Opposition and simultaneously moved, in the alternative, for jurisdictional discovery.² Plaintiffs also moved for oral argument.³ Both the Motion to Dismiss and the Cross-Motion for Jurisdictional Discovery have been fully briefed and are ripe for adjudication.⁴

The Motion to Dismiss asserts, *inter alia*, that the claims advanced against ANTHC are barred by sovereign immunity.⁵ In light of the parties’ briefing, the Court believes that the issue of sovereign immunity is dispositive of the pending motions before the Court, and that oral argument will be helpful to the Court in resolving this central issue. Accordingly, the Court **GRANTS** the Motion for Oral Argument at docket 75 as to the narrow issue of whether ANTHC is protected from suit by sovereign immunity.⁶

The Court will hear oral argument on this question in the context of Defendants’ Motion to Dismiss⁷ and Plaintiffs’ Cross-Motion for Jurisdictional Discovery⁸ in **Anchorage Courtroom 1** on **June 12, 2019**, at **10:00 AM**. The Court will hear first from Plaintiffs, followed by Defendants. Each party will have thirty minutes, in total, and Plaintiffs may choose to reserve time for rebuttal at the start of the hearing.

To resolve the issue of sovereign immunity, the Court is particularly interested in the following questions:

- In January 2019, Judge Sharon L. Gleason issued *Barron v. ANTHC*, No. 18-cv-00118-SLG, 2019 WL 80889, -- F. Supp. 3d -- (D. Alaska Jan. 2, 2019), holding that ANTHC is

¹ Dkt. 50.

² Dkts. 73, 74.

³ Dkt. 75.

⁴ Dkt. 50 (Mot. to Dismiss); Dkt. 73, 74 (Response in Opp’n and Cross Mot. for Jurisdictional Disc.); Dkts. 80, 81 (Reply).

⁵ Dkt. 51 at 2, 19–24.

⁶ Dkt. 75.

⁷ Dkt. 50.

⁸ Dkt. 73.

entitled to sovereign immunity. The Court notes that it is not bound by the *Barron* decision, but that such a decision is persuasive authority. The parties did not fully brief the impact of this recent decision; the parties are instructed to address whether the decision and analysis therein are applicable or distinguishable, and whether anything material to the sovereign immunity analysis has changed since this decision.

- With respect to the Motion for Jurisdictional Discovery, Plaintiffs are requested to specifically identify potential documents that materially bear on the question of whether ANTHC is “an arm of the tribe,” and explain what further factual development is necessary to resolve this legal question.

Entered at the direction of the Honorable Timothy M. Burgess, United States District Judge.

DATE: May 24, 2019